REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 3, 13, 20, and 21 are requested to be cancelled.

Claims 1, 2, 10, 11, 18, 19, and 31 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 2, 4-6, 8-12, 14-19, and 22-31 are now pending in this application.

As an initial matter, Applicant has amended claims 1, 10, 11, and 18 for clarification and consistency purposes. That is, claim 1 has been amended with the addition of a semi-colon after the limitation "said image or audio data stored in a lossy format;" for clarification purposes. Additionally, claims 10, 11, and 18 have been amended for clarification and consistency purposes by further describing that the claimed "information" is the "most recent" information "regarding the adjustments"/"indicative of modifications." Lastly, claim 21 has been cancelled for clarification and consistency purposes, as independent claim 18 already indicates that the image data is stored in a lossy format.

I.   Claim Rejections – 35 U.S.C. § 103

In the Final Office Action of December 23, 2008, claims 1-6 and 8-31 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 6,657,658 (Takemura) in view of U.S. Patent No. 6,650,365 (Sato). In the Notice of Decision from Pre-Appeal Brief Review of January 28, 2010, the rejection of claims 1-6 and 8-13 was maintained. Applicant traverses the rejections for the reasons set forth below.

With regard to independent claims 1, 10, 18, and 31 of the present application, the Examiner asserted and maintained that Takemura teaches all of the required limitations recited in these independent claims except for the storage of image/audio data in a lossy format. However, the Examiner asserted that Sato cures this deficiency of Takemura.

In response to the rejection, Applicant has amended each of independent claims 1, 10, 18, and 31 of the present application to more particularly recite that the claimed "most recent information" regarding/indicative of "adjustments"/"modifications" is "stored within a lossy format comment field." This feature was previously recited/suggested in, e.g., now-cancelled claims 3, 13, and 20 of the present application. Further support for this amendment can be found at, e.g., page 9, lines 23-27, page 11, lines 10-16, and page 14, lines 10-15 of the present application. Additionally, dependent claims 2 and 19 have been amended for consistency purposes in light of the afore-mentioned amendments to independent claims 1 and 18.

In the Final Office Action, the Examiner relied upon Column 8, lines 30-56 of Takemura as alleged evidence that Takemura teaches storing adjustment/modification information in a comment field of a data unit/file. Applicant respectfully disagrees with the Examiner's position. In particular, Applicant submits that Takemura fails to teach or suggest where such information is stored.

To the above, Column 8, lines 30-56 of Takemura recite the following:

> An image data obtained by the image taking means 101 is displayed as a visible image on the monitor 11 by the display/confirmation means 102. Various setting values input by the photographer are input into the display/confirmation means 102 through the finish setting means 103. The image data is processed according to the setting values and an image is reproduced on the monitor 11 on the basis of the processed image data. When the image reproduced on the monitor 11 on the basis of the processed image data is acceptable and the photographer carries out an operation which instructs end of setting, the finish setting means 103 inputs information representing the finally set finish into the finish information attaching means 104. The final finish information is attached to the original image data by the finish information attaching

means 104 and is stored in a built-in memory in the digital
camera 1 or a memory card.

For example, the finish information may be attached to the
image data by defining a file format including both the image
data and the finish information and forming data according to
the format. Otherwise the finish information may be stored as a
file separately from the image data and the file for the finish
information and the file for the image data may be associated
with each other by use of file names or IDs defined separately.
In this case, the file for the finish information and the file for
the image data may be stored different media.

In light of the above, Applicant submits that Takemura at best teaches the storage of
"finish data" with image data, but fails to specify how such finish data is stored. For
example, Takemura suggests that in one embodiment, an entirely new file format would be
defined containing both the image data and the finish data. Alternatively and in accordance
with another embodiments, Takemura suggests storing the image data and finish data
separately.

In contrast, independent claims 1, 10, 18, and 31 of the present application as
currently amended explicitly require that the most recent adjustment/modification information
is stored within a lossy format comment field of the same data unit/image data storage unit
that the image/audio data is stored. That is and as described at, e.g., page 9, lines 8-32 of the
present application, most recent adjustment/modification information may be stored with the
original image data in an "already existing" comment field of a lossy format data unit/file
such as the comment field of a JPEG file. In the case of audio data, the most recent
adjustment/modification information may be stored in a lossy format comment field such as,
e.g., the IDV3 field(s) of an MP3 file. Thus, various embodiments of the present application
as claimed do not require the defining of an entirely new file format, but are able to utilize an
existing field(s) of lossy format data units/files.

With regard to the alleged combination of Takemura and Sato, as previously
discussed, Takemura fails to teach or suggest any use of a lossy format file and as discussed
above, actually contemplates the creation/defining of a "new" file format. Thus, while Sato
my evidence an exemplary type of lossy format file which can be used to store media data,

nothing in either reference or due to knowledge allegedly possessed by one of ordinary skill in the art suggests the use of a comment field in that lossy format file to store such adjustment/modification information. In fact, Takemura arguably teaches away from the use of an existing file format because of the afore-mentioned desire to define a new file format. Moreover, and because the Examiner explicitly asserted that Sato was relied upon soley as alleged evidence that a lossy format existed which could be used to store, e.g., image data, nothing in the disclosure of Sato would lead one of ordinary skill in the art to store the finish data of Takemura in a comment field thereof.

In light of the above, Applicant submits that the alleged combination of Takemura and Sato fail to teach or suggest each and every limitation recited in independent claims 1, 10, 18, and 31 of the present application.

II.   Conclusion

Because none of the references cited by the Examiner, either separately or in combination with each other, teach all of the limitations disclosed in independent claims 1, 10, 18, and 31 of the present application, Applicant submits that each of these independent claims are patentable over this prior art. Furthermore, because dependent claims 2, 4-6, 8, 9, 11, 12, 14-17, and 19, and 22-30 are each directly or indirectly dependent upon independent claims 1, 10, and 18, Applicant submits that each of these claims are allowable for at least the same reasons as discussed above.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected

or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date   May 27, 2010   By   /G. Peter Albert, Jr./

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